

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

MICHAEL STEPHEN KAYS, P.A.)

MBC File # 950-2016-001168

Physician Assistant)
License No. PA 21494)

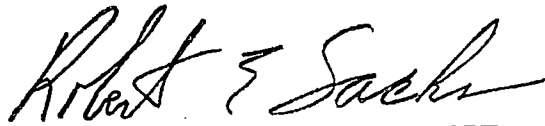
Respondent.)

**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "ORDER PAGE" OF DECISION**

On its own motion, the Physician Assistant Board (hereafter "board") finds that there is a clerical error in first line of the first paragraph of the Decision in the above-entitled matter and that such clerical error should be corrected.

IT IS HEREBY ORDERED that the line should read "The attached Proposed Decision After Remand is hereby adopted as the Decision and Order of the Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California" contained on the Decision Order Page in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision.

November 3, 2017



Robert E. Sachs, P.A., Chair

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

MICHAEL STEPHEN KAYS, P.A.

Case No. 950-2016-001168

**Physician Assistant
License No. PA 21494**

Respondent

DECISION AND ORDER


The attached Proposed Decision is hereby adopted as the Decision and Order of the Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on December 1, 2017.

IT IS SO ORDERED November 2, 2017.

PHYSICIAN ASSISTANT BOARD

By:



Robert E. Sachs, P.A., Chair

BEFORE THE
PHYSICIAN ASSISTANT BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MICHAEL STEPHEN KAYS, P.A.

Physician Assistant License No. PA-21494,

Respondent.

Case No. 950-2016-001168

OAH No. 2017061250.1

PROPOSED DECISION AFTER REMAND

On September 26, 2017, the Office of Administrative Hearings (OAH) received an "ORDER OF RECONSIDERATION AND REMAND TO ADMINISTRATIVE LAW JUDGE." The remanded matter was assigned to Administrative Law Judge (ALJ) Hewitt, the Administrative Law Judge who presided over the July 17, 2017, hearing. The order stated:

The Board hereby remands this case back to the Office of Administrative Hearings to assign an administrative law judge for reconsideration of this case and further action. Such further action shall include the following:

A) allow the parties to present evidence regarding whether Paragraphs 1 to 8 of the Proposed Decision's Factual Findings should be revised or struck;

B) If the administrative law judge finds that Paragraphs 1 to 8 should be revised or struck, make any new findings regarding respondent that the administrative law judge deems appropriate; and,

C) reconsider the penalty in light of any new findings the administrative law judge makes.

The presentation of further evidence on remand was unnecessary because the error in factual findings 1 to 8 were obviously due to an editing error by ALJ Hewitt. The editing

error consisted of using a previous case for formatting purposes; during the editing process the factual findings from the previous case were included in the final draft of the Proposed Decision in this matter. ALJ Hewitt had access to his notes, taken during the July 17, 2017, hearing in this matter, the exhibits from the hearing, and the decision from the case used for formatting the Proposed Decision in this matter. There is no question that paragraphs 1 to 8 of the original Proposed Decision must be revised to conform to the evidence presented during the July 17, 2017, hearing.

CORRECTED PROPOSED DECISION

This matter was heard by Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, in San Diego, California on July 17, 2017.

Deputy Attorney General Rosemary F. Luzon, represented complainant, Maureen L. Forsyth, the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs, State of California.

Respondent, Michael Stephen Kays, represented himself.

The matter was submitted on July 17, 2017.

PROTECTIVE ORDER

The information contained in the records in this matter is subject to a protective order. Exhibits 11, 16, 20, 21, 22, 23, 24, 25, 26, and 29 contain confidential information. It is impractical to redact the information from these documents. To protect privacy and the confidential personal information from inappropriate disclosure, Exhibits 11, 16, 20, 21, 22, 23, 24, 25, 26, and 29, are ordered sealed. This sealing order governs the release of documents to the public. A reviewing court, parties to this matter, their attorneys, and a government agency decision maker or designee under Government Code section 11517, may review the documents subject to this order, provided that such documents are protected from release to the public. No court reporter or transcription service shall transcribe the information contained in the records/exhibits.

FACTUAL FINDINGS¹

1. On February 23, 2011, respondent was issued Physician Assistant License

¹ Factual Findings 1 to 3 replaced Factual Findings 1 to 8 of the original Proposed Decision.

2. On November 8, 2016, the board received a complaint from a Supervising Investigator with the Riverside District Attorney's (DA) Office alleging that respondent "is exhibiting bizarre mental health behavior and obvious paranoid delusions." According to the complaint respondent had called the National Center for Missing and Exploited Children (NCMEC) and reported that he had uncovered a child abuse/pornography network called "The Good Book." According to respondent, his neighbors and "the Riverside investigator" were involved in the network. Eventually, respondent admitted that he had experienced an emotional breakdown and the NCMEC complaint was all imaginary and part of his mental issues. Later, respondent contacted the DA investigator to report that he (respondent) was attempting to build a task force in the Hemet, California, area to combat the huge problem of sex offenders in the area. Respondent told the investigator that "the agents" were following him and threatening his life, telling him "it will look like an accident." During the telephone conversation, respondent "rambled for a while about being fired by the doctor who employed him, being in fear for his life, and about people following him." Respondent also said that he did not trust the Riverside County Sheriff's Department or the FBI because, based on his contacts with those organizations, he was placed on a "5150² hold."

3. On February 24, 2017, based on a complete investigation of respondent's "bizarre behaviors," Dr. Alan Abrams, M.D., J.D., FCLM, a psychiatrist, conducted a psychiatric evaluation of respondent.

Psychiatric Evaluation

4. In advance of the February 24, 2017, psychiatric evaluation, Dr. Abrams reviewed extensive documentation concerning respondent's mental history, including the following: a complaint made to a Riverside County District Attorney (DA) investigator; calls for service report from Hemet Police Department; CURES reports for respondent; NCMEC referrals made by respondent; calls for service report from San Jacinto Police Department; order to compel; facsimile from San Diego Sheriff's Department; email received from respondent on February 19, 2017; police report from Santa Barbara Sheriff's Department; and medical records from Brett Gundl, PA, the University of California, Irvine, Hemet Valley Medical Center, Dong Kim, MD, Loma Linda Medical Center, the Riverside University Health System, and from Palomar Medical Center.

5. On February 24, 2017, Dr. Abrams conducted an "820 mental examination" of respondent. In his evaluation report Dr. Abrams noted respondent's "Account of Events." Respondent gave Dr. Abrams the following description of the pertinent events leading to the Mental Examination Order:

² A "5150 hold" refers to a Health and Safety Code section 5150 involuntary commitment to a mental health facility for a mental health evaluation.

PA Kays reported that in 2014 he was injured by sewage that leaked onto him from his shower. He believes he was infected with flat or round worms. He reported developing severe diarrhea and skin lesions. . . . He then developed a cough. He developed skin cysts, rash and severe itching. PA Kays sought medical help. He reported he was told he suffered from worms at UC Irvine Medical Center [the medical records do not support this statement]. PA Kays began treating himself with veterinary medications for worms. PA Kays reported he found a scientific article that reported that amphetamine interacted with a worm molting hormone, and prevented worm muscle elongation. PA Kays reported that he started using methamphetamine to rid himself of the worms; "Stimulants saved my life." PA Kays denies that he suffers from mental illness or substance abuse: "I'm annoyed about dealing with the meth issue. I understand the concept of delusional parasitosis and its connection with meth and cocaine. I won't allow that to be placed on me. This has been diagnosed by serious medical institutions. I know anyone could say helminth to detract from delusional parasitosis." PA Kays reported that he learned there was a large sex offender population in Hemet and San Jacinto. PA Kays reported that he heard inappropriate things next to where he was living: "If I were going to die from helminths, I wanted to do something good. . . . The offender population found out. . . . People would drive by my house saying I was a 'hit,' I don't know who they were [Hemet and San Jacinto police reports based on respondent's having contacted the authorities about his suspicions and experiences with the drive-by threats do not support respondent's statement or beliefs]." (Exh. 11, AGO 633)

6. Respondent's "Psychiatric, Neuropsychiatric, Substance Use History, and Medical History" was described by Dr. Abrams as follows:

PA Kays has never voluntarily sought mental health treatment. He has been placed on involuntary mental health detentions under [California Welfare and Institutions Code] section 5150 on three occasions in 2016. PA Kays reported that the nurse at Palomar told him to say he was dangerous in order to get his skin rash cared for. He reported that the other two [involuntary, 5150 detentions] were based on misdiagnoses of his worm infestation. PA Kays adamantly denies having any mental illness; "Certainly not. It would have come out before."

PA Kays reported that he first tried amphetamines last year to kill his worms. He reported that Adderall did not work, so he began using street methamphetamine: "It saved my life." He reported using methamphetamine ten days prior to the examination. He denied using it daily. He estimated using methamphetamine about ten times.

PA Kays reported that he began using marijuana for pain in 2011. He also uses it for nausea. He reported that he has a medical marijuana card. He estimated using [sic] once a week at most. He denied ever using on a daily basis.

PA Kays reported that he has only used alcohol rarely in his life. PA Kays reported that he has used prescribed benzodiazepines for insomnia and muscle spasms.

PA Kays denied ever using cocaine, but would not answer questions about other illegal drugs.

PA Kays reported once having a seizure which he attributed to the veterinary medications he was using. (Exh. 11, AGO 0635-0636)

7. After a two and one-half hour "Mental Status Examination," Dr. Abrams reached the following diagnoses:

The psychiatric diagnoses that best apply to PA Kays at this time are: Delusional Disorder, persecutory and somatic type; Methamphetamine Induced Psychosis, in partial remission; Methamphetamine Use Disorder, Severe; [and] Cannabis Use Disorder, Mild. (Exh. 11, AGO 0640)

8. Dr. Abrams "Summary and Recommendations" were as follows:

The medical records suggest that PA Kays becomes acutely psychotic when using amphetamines, and then quickly clears when he detoxifies. It is not possible to determine whether the delusional parasitosis was the result of amphetamine misuse or predated it. PA Kays' self-treatment for his delusional helminthic infestation with toxic doses of veterinary antiparasitic medications shows extremely poor judgment regarding the practice of medicine. His concern that people were commenting

on his PA work with children is worrisome. PA Kays' continuing use of amphetamines, even after three involuntary psychiatric hospitalizations, shows significantly impaired judgment. I do not believe PA Kays can practice safely unless he is fully abstinent from amphetamines and marijuana, and any other intoxicants or self-prescribed medications. PA Kays' delusions may completely resolve with full sobriety, or may require treatment with psychotropic medications. PA Kays has no willingness to accept that he may have a mental illness. There is little likelihood that PA Kays will seek psychiatric care on his own. If conditions of probation monitoring are considered, psychiatric treatment will need to be mandated, along with random drug testing and participation in a drug rehabilitation program, such as AA. (Exh 11, AGO 0640-0641)

Respondent's Evidence

9. Respondent did not testify or present any evidence during the hearing; however, he sent an email to the ALJ, which was received at the Office of Administrative Hearings on July 17, 2017, the date of the hearing. The email was marked as Exhibit 35 and received in evidence. The email reflects respondent's current state of mind. Respondent's email message (sent from his mobile phone) read, in pertinent part:

Sir, there are a few more points I need to mention, I am trying to keep it simplified so we can all move on, but please allow me to speak about a few more items.

The apartment that I first moved into, in the Palm Court Apartments in Hemet, CA, had what I was told was an AC condensation pipe that drained into the shower. It would drain water every night around midnight and after. It then began draining water that appeared to be containing grit, which I thought was dirt or gravel from the roof. In the weeks that followed, the material became more and more viscous, even globular. This timeline was concurrent with the sores that appeared on my feet as well as the severe diarrhea that began, which contained flat pieces of what I realized were proglottid segments of material. I immediately went to the County clinic and saw PA Grundl, who agreed with what I showed him. We ordered a lab test, which was redirected to another lab at the recommendation of Dr. Koka. You can subpoena PA Grundl to confirm this, in fact please feel free to subpoena anyone you wish who you might feel can clarify things any further. He was

the first to prescribe me praziquantel, which helped only somewhat.

From that time forward, I tried numerous other agents which had various levels of efficacy. These included albendazole, oxfendazole, cambendazole (this was synthesized for me internationally at a cost of approximately \$15,000 . . .), nitazoxanide, ivermectin, doramectin, moxidectin, doxycycline, pyrantel, and piperazine (an analogue of diethylcarbamazine).

I tried to get DEC from the government in 2015, it is very difficult to obtain. They referred me to the tropical disease specialists at UCSD but by that point I was broke and had no insurance so they wouldn't see me. DEC is infused into some of our international salt supplies, as you may already be aware of.

The reason I know that some of my helminthic affliction involves taenia was that after a massive ingestion of praziquantel/albendazole, my bowels purged the head of a tapeworm, which is called a scolex. Scolices often attach near the duodenum of the stomach, to feed, which is the region where the largest cyst grew. . . .

Eventually, I could barely walk and someone made a comment that I was walking inappropriately which turned into a terrible rumor. I was presented with a topic I hadn't normally thought about, looked into Megan's law and learned of the large offender populations in Hemet and San Jacinto, fell into a state of shock that such public integration of offenders existed and decided to try and network city management with County officials. That coupled with my emotional and mental states from the meth use, turned into an even larger nightmare than I am able to speak of.

[¶] . . . [¶]

I can't think of too much more to add, other than the methamphetamine being what finally worked to dissolve the cysts and halt the rashes. It was always street grade and I suppose some of the substances used to cut that could also have proved disagreeable to me, as I have never reacted well to psychiatric medications. Either way, I'm very thankful that my health issue has resolved.

//

LEGAL CONCLUSIONS

1. Cause exists for action based on Business and Professions Code section 822 because, as set forth in Findings 2, 5, 6, 7, 8 and 9, respondent's ability to practice medicine safely is impaired due to mental illnesses affecting his competency.
2. Cause exists for discipline based on Business and Professions Code sections 2234, 2239, 3527, and California Code of Regulations, title 16, 1399.525 due to respondent's excessive use of drugs.
3. Cause exists for discipline based on Business and Professions Code sections 2234, 2239, 3527 because, the facts, considered as a whole revealed acts of general unprofessional conduct.
4. Cause exists for discipline based on Business and Professions Code sections 2227, 2234, 3527, and California Code of Regulations, title 16, 1399.525 because, respondent's conduct constituted violations of the Physician Assistant Practice Act.

Analysis

5. Respondent currently suffers from "Delusional Disorder, persecutory and somatic type; Methamphetamine Induced Psychosis, in partial remission; Methamphetamine Use Disorder, Severe; [and] Cannabis Use Disorder, Mild." (Finding 7.) He does not currently appreciate the severity of his impairment and, in Dr. Abrams's expert opinion:

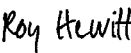
I do not believe PA Kays can practice safely unless he is fully abstinent from amphetamines and marijuana, and any other intoxicants or self-prescribed medications. PA Kays' delusions may completely resolve with full sobriety, or may require treatment with psychotropic medications. PA Kays has no willingness to accept that he may have a mental illness. There is little likelihood that PA Kays will seek psychiatric care on his own.

Given the established fact that respondent “has no willingness to accept that he may have a mental illness” probation is not an option; public protection requires outright revocation.³

ORDER

Respondent Michael Stephen Kays, P.A.’s Physician Assistant License No. PA-21494 is revoked.

Corrected Proposed Decision dated: October 4, 2017

DocuSigned by:

8225E047DD7D48A

ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

³ This conclusion was based on respondent’s psychiatric evaluation results and the expert opinion of Dr. Abrams, the psychiatrist who performed the psychiatric evaluation. No expert testimony disputing Dr. Abrams’s expert opinions was presented by respondent. The corrected Factual Findings were mainly relevant in establishing the reason(s) respondent was compelled to undergo a psychiatric evaluation; therefore, the legal conclusions that resulted from that evaluation and the order in the original Proposed Decision do not require any corrections/modifications.

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MICHAEL STEPHEN KAYS; P.A.

Physician Assistant
License Number PA-21494,

Respondent.

Case No. 950-2016-001168

OAH No. 2017061250

**ORDER OF RECONSIDERATION AND REMAND
TO ADMINISTRATIVE LAW JUDGE**

Procedural History

On June 1, 2017, an Accusation was filed against Respondent Michael Stephen Kays, P.A. ("Respondent") by Complainant Maureen L. Forsyth, Executive Officer for the Physician Assistant Board ("Board"). The matter was heard before Roy W. Hewitt, Administrative Law Judge, Office of Administrative Hearings, on July 17, 2017, in San Diego, California. The matter was submitted for decision on July 17, 2017, and a Proposed Decision was issued on August 15, 2017.

On September 1, 2017, the Board adopted the Proposed Decision with an effective date of September 29, 2017. Complainant filed an Application to Correct Mistake or Error in Decision under Government Code section 11518.5 with the Board on September 19, 2017, alleging paragraphs 1 to 8 of the Factual Findings in the Proposed Decision do not pertain to Respondent, but rather to another individual (see attached). Section 11518.5 of the Government Code, subdivision (d), states, that the Board may on its own motion correct a mistake. Any modification "shall be made within 15 days after issuance of the decision." Complainant's request is therefore not timely, but for the following reasons, it is also moot.

Government Code section 11521 permits the Board to order reconsideration of all or part of a case on its own motion and authorizes the Board to assign that reconsideration to an administrative law judge. Further, "[a] reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Section 11517." (Gov. Code, § 11517, subd. (b).)

Pursuant to Government Code Section 11521, the Board on its own motion hereby orders reconsideration of its decision in this matter. This order is necessary to examine Complainant's allegation that Factual Findings 1 to 8 do not pertain to Respondent.

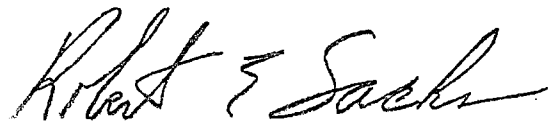
Order

The Board hereby remands this case back to the Office of Administrative Hearings to assign an administrative law judge for reconsideration of this case and further action. Such further action shall include the following:

- A) allow the parties to present evidence regarding whether Paragraphs 1 to 8 of the Proposed Decision's Factual Findings should be revised or struck;
- B) if the administrative law judge finds that Paragraphs 1 to 8 should be revised or struck, make any new findings regarding respondent that the administrative law judge deems appropriate; and,
- C) reconsider the penalty in light of any new findings the administrative law judge makes.

The Administrative Law Judge shall forward his or her revised Proposed Decision to the Board for decision and action. Respondent shall remain suspended and shall not practice medicine in the State of California pursuant to the May 12, 2017 Interim Suspension Order; that Order shall remain in place pending further court order or Decision by the Board.

IT IS SO ORDERED this 26th day of September, 2017.



Robert Sachs, P.A.
President
Physician Assistant Board

BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)

MICHAEL STEPHEN KAYS, P.A.)

Case No. 950-2016-001168

Physician Assistant)

Certificate No. PA 21494)

Respondent)


DECISION AND ORDER

The attached Proposed Decision is hereby adopted as the Decision and Order of Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 29, 2017.

IT IS SO ORDERED September 1, 2017.

PHYSICIAN ASSISTANT BOARD

By: 
Robert E. Sachs, P.A., Chair

BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MICHAEL STEPHEN KAYS, P.A.

Physician Assistant License No. PA-21494,

Respondent.

Case No. 950-2016-001168

OAH No. 2017061250

PROPOSED DECISION

This matter was heard by Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, in San Diego, California on July 17, 2017.

Deputy Attorney General Rosemary F. Luzon, represented complainant, Maureen L. Forsyth, the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs, State of California.

Respondent, Michael Stephen Kays, P.A., represented himself.

The matter was submitted on July 17, 2017.

PROTECTIVE ORDER

The information contained in the records in this matter is subject to a protective order. Exhibits 11, 16, 20, 21, 22, 23, 24, 25, 26, and 29 contain confidential information. It is impractical to redact the information from these documents. To protect privacy and the confidential personal information from inappropriate disclosure, Exhibits 11, 16, 20, 21, 22, 23, 24, 25, 26, and 29, are ordered sealed. This sealing order governs the release of documents to the public. A reviewing court, parties to this matter, their attorneys, and a government agency decision maker or designee under Government Code section 11517, may review the documents subject to this order, provided that such documents are protected from release to the public. No court reporter or transcription service shall transcribe the information contained in the records/exhibits.

FACTUAL FINDINGS

1. On May 2, 1977, respondent was issued Physician Assistant License No. PA-21494.

2. On January 27, 2016, the board's central complaint unit received an anonymous complaint alleging that respondent was "gravely disabled because of advanced memory difficulty." On February 5, 2016, the complaint was referred to the board's Investigation Unit for investigation.

3. The investigation of the complaint led to concerns about respondent's mental status. For example, it was discovered that respondent's driver's license had been suspended due to the fact that respondent "seemed to be suffering from dementia." Additionally, a medical evaluation report signed by respondent's treating physician, Jody Corey-Bloom, M.D., Ph.D., had concluded that respondent was suffering "significant effect" from memory problems and he "may require some supervision, support, and assistance."

4. On January 13, 2017, based on the appearance that respondent may be unable to safely practice medicine, the board issued an order compelling respondent to undergo mental and physical examinations pursuant to Business and Professions Code section 820.

5. Respondent received the order compelling examinations and a letter informing him that a psychiatric examination was scheduled for January 27, 2017, at 10:00 a.m. with Alan Abrams, M.D., and a physical examination was scheduled for January 30, 2017, at 12:30 p.m. with Diana Marquardt, M.D.

6. On January 26, 2017, respondent's attorney left a voice-mail for the investigator informing her that respondent was no longer practicing medicine, he had closed his office and he would not be attending the examination appointments. Later, Deputy Attorney General Westfall contacted the investigator and informed the investigator that based on a conversation she had with respondent's attorney, she had agreed to reschedule respondent's appointments.

7. Respondent's physical examination was rescheduled for February 4, 2017, at 12:30 p.m. with Dr. Marquardt and his psychiatric evaluation was rescheduled for February 10, 2017, at 3:30 p.m. with Dr. Abrams. Both respondent and his attorney were advised of/noticed about the examination dates, times and places.

8. On February 10, 2017, the investigator was notified that respondent failed to appear for his February 4, 2017, physical examination/evaluation and his February 10, 2017, 3:30 p.m. psychiatric evaluation.

Psychiatric Evaluation

9. Eventually, on February 24, 2017, Alan A. Abrams, M.D., J.D., FCLM, performed “a court ordered section 820 mental examination” on respondent. In advance of the examination Dr. Abrams reviewed extensive documentation concerning respondent’s mental history, including the following: a complaint made to the Central Complaint Unit; calls for service report from Hemet Police Department; CURES reports for respondent; NCMEC referrals made by respondent; calls for service report from San Jacinto Police Department; order to compel; facsimile from San Diego Sheriff’s Department; email received from respondent on February 19, 2017; police report from Santa Barbara Sheriff’s Department; and medical records from Brett Gundl, PA, the University of California, Irvine, Hemet Valley Medical Center, Dong Kim, MD, Loma Linda Medical Center, the Riverside University Health System, and from Palomar Medical Center.

10. On February 24, 2017, Dr. Abrams conducted an “820 mental examination” of respondent. In his evaluation report Dr. Abrams noted respondent’s “Account of Events.” Respondent gave Dr. Abrams the following description of the pertinent events leading to the Mental Examination Order:

PA Kays reported that in 2014 he was injured by sewage that leaked onto him from his shower. He believes he was infected with flat or round worms. He reported developing severe diarrhea and skin lesions. . . . He then developed a cough. He developed skin cysts, rash and severe itching. PA Kays sought medical help. He reported he was told he suffered from worms at UC Irvine Medical Center [the medical records do not support this statement]. PA Kays began treating himself with veterinary medications for worms. PA Kays reported he found a scientific article that reported that amphetamine interacted with a worm molting hormone, and prevented worm muscle elongation. PA Kays reported that he started using methamphetamine to rid himself of the worms; “Stimulants saved my life.” PA Kays denies that he suffers from mental illness or substance abuse: “I’m annoyed about dealing with the meth issue. I understand the concept of delusional parasitosis and its connection with meth and cocaine. I won’t allow that to be placed on me. This has been diagnosed by serious medical institutions. I know anyone could say helminth to detract from delusional parasitosis.” PA Kays reported that he learned there was a large sex offender population in Hemet and San Jacinto. PA Kays reported that he heard inappropriate things next to where he was living: “If I were going to die from helminths, I wanted to do something good. . . . The offender population found out. . . .

People would drive by my house saying I was a 'hit,' I don't know who they were [Hemet and San Jacinto police reports based on respondent's having contacted the authorities about his suspicions and experiences with the drive-by threats do not support respondent's statement or beliefs]." (Exh. 11, AGO 633)

11. Respondent's "Psychiatric, Neuropsychiatric, Substance Use History, and Medical History" was described by Dr. Abrams as follows:

PA Kays has never voluntarily sought mental health treatment. He has been placed on involuntary mental health detentions under W&I [California Welfare and Institutions Code] section 5150 on three occasions in 2016. PA Kays reported that the nurse at Palomar told him to say he was dangerous in order to get his skin rash cared for. He reported that the other two [involuntary, 5150 detentions] were based on misdiagnoses of his worm infestation. PA Kays adamantly denies having any mental illness; "Certainly not. It would have come out before."

PA Kays reported that he first tried amphetamines last year to kill his worms. He reported that Adderall did not work, so he began using street methamphetamine: "It saved my life." He reported using methamphetamine ten days prior to the examination. He denied using it daily. He estimated using methamphetamine about ten times.

PA Kays reported that he began using marijuana for pain in 2011. He also uses it for nausea. He reported that he has a medical marijuana card. He estimated using [it] once a week at most. He denied ever using [it] on a daily basis.

PA Kays reported that he has only used alcohol rarely in his life. PA Kays reported that he has used prescribed benzodiazepines for insomnia and muscle spasms.

PA Kays denied ever using cocaine, but would not answer questions about other illegal drugs.

PA Kays reported once having a seizure which he attributed to the veterinary medications he was using. (Exh. 11, AGO 0635-0636)

12. After a two and one-half hour "Mental Status Examination," Dr. Abrams reached the following diagnoses:

The psychiatric diagnoses that best apply to PA Kays at this time are: Delusional Disorder, persecutory and somatic type; Methamphetamine Induced Psychosis, in partial remission; Methamphetamine Use Disorder, Severe; [and] Cannabis Use Disorder, Mild. (Exh. 11, AGO 0640)

13. Dr. Abrams "Summary and Recommendations" were as follows:

The medical records suggest that PA Kays becomes acutely psychotic when using amphetamines, and then quickly clears when he detoxifies. It is not possible to determine whether the delusional parasitosis was the result of amphetamine misuse or predated it. PA Kays' self-treatment for his delusional helminthic infestation with toxic doses of veterinary antiparasitic medications shows extremely poor judgment regarding the practice of medicine. His concern that people were commenting on his PA work with children is worrisome. PA Kays' continuing use of amphetamines, even after three involuntary psychiatric hospitalizations, shows significantly impaired judgment. I do not believe PA Kays can practice safely unless he is fully abstinent from amphetamines and marijuana, and any other intoxicants or self-prescribed medications. PA Kays' delusions may completely resolve with full sobriety, or may require treatment with psychotropic medications. PA Kays has no willingness to accept that he may have a mental illness. There is little likelihood that PA Kays will seek psychiatric care on his own. If conditions of probation monitoring are considered, psychiatric treatment will need to be mandated, along with random drug testing and participation in a drug rehabilitation program, such as AA. (Exh 11, AGO 0640-0641)

Respondent's Evidence

14. Respondent did not testify or present any evidence during the hearing; however, he did send an email to the ALJ, which was received at the Office of Administrative Hearings on July 17, 2017, the date of the hearing. The email was marked as Exhibit 35 and received in evidence. The email reflects respondent's current state of mind. Respondent's text/email message (sent from his mobile phone) read, in pertinent part:

Sir, there are a few more points I need to mention, I am trying to keep it simplified so we can all move on, but please allow me to speak about a few more items.

The apartment that I first moved into, in the Palm Court Apartments in Hemet, CA, had what I was told was an AC condensation pipe that drained into the shower. I would drain water every night around midnight and after. It then began draining water that appeared to be containing grit, which I thought was dirt or gravel from the roof. In the weeks that followed, the material became more and more viscous, even globular. This timeline was concurrent with the sores that appeared on my feet as well as the severe diarrhea that began, which contained flat pieces of what I realized were proglottid segments of material. I immediately went to the County clinic and saw PA Grundl, who agreed with what I showed him. We ordered a lab test, which was redirected to another lab at the recommendation of Dr. Koka. You can subpoena PA Grundl to confirm this, in fact please feel free to subpoena anyone you wish who you might feel can clarify things any further. He was the first to prescribe me praziquantel, which helped only somewhat.

From that time forward, I tried numerous other agents which had various levels of efficacy. These included albendazole, oxfendazole, cambendazole (this was synthesized for me internationally at a cost of approximately \$15,000 . . .), nitazoxanide, ivermectin, doramectin, moxidectin, doxycycline, pyrantel, and piperazine (an analogue of diethylcarbamazine).

I tried to get DEC from the government in 2015, it is very difficult to obtain. They referred me to the tropical disease specialists at UCSD but by that point I was broke and had no insurance so they wouldn't see me. DEC is infused into some of our international salt supplies, as you may already be aware of.

The reason I know that some of my helminthic affliction involves taenia was that after a massive ingestion of praziquantel/albendazole, my bowels purged the head of a tapeworm, which is called a scolex. Scolices often attach near the duodenum of the stomach, to feed, which is the region where the largest cyst grew. . . .

Eventually, I could barely walk and someone made a comment that I was walking inappropriately which turned into a terrible rumor. I was presented with a topic I hadn't normally thought about, looked into Megan's law and learned of the large offender populations in Hemet and San Jacinto, fell into a state of shock that such public integration of offenders existed and decided to try and network city management with County officials. That coupled with my emotional and mental states from the meth use, turned into an even larger nightmare than I am able to speak of.

[¶] . . . [¶]

I can't think of too much more to add, other than the methamphetamine being what finally worked to dissolve the cysts and halt the rashes. It was always street grade and I suppose some of the substances used to cut that could also have proved disagreeable to me, as I have never reacted well to psychiatric medications. Either way, I'm very thankful that my health issue has resolved.

LEGAL CONCLUSIONS

1. Cause exists for action/discipline based on Business and Professions Code section 822 because, as set forth in Findings 10, 11, 12, and 13, respondent's ability to practice medicine safely is impaired due to mental illnesses affecting his competency.
2. Cause exists for action/discipline based on Business and Professions Code sections 2234, 2239, 3527, and California Code of Regulations, title 16, 1399.525 due to respondent's excessive use of drugs.
3. Cause exists for action/discipline based on Business and Professions Code sections 2234, 2239, 3527 because, the facts, considered as a whole revealed acts of general unprofessional conduct.
4. Cause exists for action/discipline based on Business and Professions Code sections 2227, 2234, 3527, and California Code of Regulations, title 16, 1399.525 because, respondent's conduct constituted violations of the Physician Assistant Practice Act.

Analysis

5. Respondent currently suffers from "Delusional Disorder, persecutory and somatic type; Methamphetamine Induced Psychosis, in partial remission; Methamphetamine

Use Disorder, Severe; [and] Cannabis Use Disorder, Mild.” (Finding 12) He does not currently appreciate the severity of his impairment and, in Dr. Abrams’s expert opinion:

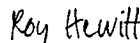
I do not believe PA Kays can practice safely unless he is fully abstinent from amphetamines and marijuana, and any other intoxicants or self-prescribed medications. PA Kays’ delusions may completely resolve with full sobriety, or may require treatment with psychotropic medications. PA Kays has no willingness to accept that he may have a mental illness. There is little likelihood that PA Kays will seek psychiatric care on his own.

Given the established fact that respondent “has no willingness to accept that he may have a mental illness” probation is not an option; public protection requires outright revocation.

ORDER

Respondent Michael Stephen Kays Physician Assistant License No. PA-21494 is revoked.

Dated: August 15, 2017

DocuSigned by:

8225E047DD7D48A...

ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

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Attorneys for Complainant

BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 950-2016-001168

MICHAEL STEPHEN KAYS, P.A.
4121 Brockton Ave., Ste. 104
Riverside, CA 92501-3442

A C C U S A T I O N

Physician Assistant License
No. PA-21494

Respondent.

Complainant alleges:

PARTIES

1. Maureen L. Forsyth (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs (Board).
2. On or about February 23, 2011, the Physician Assistant Board issued Physician Assistant License No. PA-21494 to Michael Stephen Kays, P.A. (Respondent). The Physician Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2018, unless renewed. On or about May 12, 2017, an Interim Order of Suspension was granted in *In the Matter of the Noticed Hearing on the Petition for Interim*

1 *Suspension Order Against Michael Stephen Kays, P.A.*, Case No. 950-2016-001168 (OAH No.
2 2017040796), suspending Physician Assistant License No. PA-21494 issued to Respondent
3 pending a full administrative determination of Respondent's fitness to practice medicine.

4 **JURISDICTION**

5 3. This Accusation is brought before the Board, under the authority of the following
6 laws. All section references are to the Business and Professions Code (Code) unless otherwise
7 indicated.

8 4. Section 820 of the Code states:

9 "Whenever it appears that any person holding a license, certificate or
10 permit under this division or under any initiative act referred to in this division
11 may be unable to practice his or her profession safely because the licentiate's
12 ability to practice is impaired due to mental illness, or physical illness affecting
13 competency, the licensing agency may order the licentiate to be examined by one
14 or more physicians and surgeons or psychologists designated by the agency. The
15 report of the examiners shall be made available to the licentiate and may be
16 received as direct evidence in proceedings conducted pursuant to Section 822."

17 5. Section 822 of the Code states:

18 "If a licensing agency determines that its licentiate's ability to practice his
19 or her profession safely is impaired because the licentiate is mentally ill, or
20 physically ill affecting competency, the licensing agency may take action by any
21 one of the following methods:

22 "(a) Revoking the licentiate's certificate or license.

23 "(b) Suspending the licentiate's right to practice.

24 "(c) Placing the licentiate on probation.

25 "(d) Taking such other action in relation to the licentiate as the licensing agency in
26 its discretion deems proper.

27 "The licensing section shall not reinstate a revoked or suspended certificate or
28 license until it has received competent evidence of the absence or control of the condition

1 which caused its action and until it is satisfied that with due regard for the public health
2 and safety the person's right to practice his or her profession may be safely reinstated."

3 6. Section 824 of the Code states:

4 "The licensing agency may proceed against a licentiate under either Section 820,
5 or 822, or under both sections."

6 7. Section 3527 of the Code, in pertinent part, states:

7 "(a) The board may order the denial of an application for, or the issuance
8 subject to terms and conditions of, or the suspension or revocation of, or the
9 imposition of probationary conditions upon a physician assistant license after a
10 hearing as required in Section 3528 for unprofessional conduct which includes, but
11 is not limited to, a violation of this chapter, a violation of the Medical Practice Act,
12 or a violation of the regulations adopted by the board or the Medical Board of
13 California.

14 "(b) The board may order the denial of an application for, or the
15 suspension or revocation of, or the imposition of probationary conditions upon, an
16 approved program after a hearing as required in Section 3528 for a violation of this
17 chapter or the regulations adopted pursuant thereto.

18 "(c) The Medical Board of California may order the denial of an
19 application for, or the issuance subject to terms and conditions of, or the
20 suspension or revocation of, or the imposition of probationary conditions upon, an
21 approval to supervise a physician assistant, after a hearing as required in Section
22 3528, for unprofessional conduct, which includes, but is not limited to, a violation
23 of this chapter, a violation of the Medical Practice Act, or a violation of the
24 regulations adopted by the board or the Medical Board of California.

25 "...

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1 “(g) The expiration, cancellation, forfeiture, or suspension of a physician
2 assistant license by operation of law or by order or decision of the board or a court
3 of law, the placement of a license on a retired status, or the voluntary surrender of
4 a license by a licensee shall not deprive the board of jurisdiction to commence or
5 proceed with any investigation of, or action or disciplinary proceeding against, the
6 licensee or to render a decision suspending or revoking the license.”

7 8. Section 3528 of the Code states:

8 “Any proceedings involving the denial, suspension or revocation of the
9 application for licensure or the license of a physician assistant, the application for
10 approval or the approval of a supervising physician, or the application for approval
11 or the approval of an approved program under this chapter shall be conducted in
12 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division
13 3 of Title 2 of the Government Code.”

14 9. Section 2227 of the Code states:

15 “(a) A licensee whose matter has been heard by an administrative law
16 judge of the Medical Quality Hearing Panel as designated in Section 11371 of the
17 Government Code, or whose default has been entered, and who is found guilty, or
18 who has entered into a stipulation for disciplinary action with the board, may, in
19 accordance with the provisions of this chapter:

20 “(1) Have his or her license revoked upon order of the board.

21 “(2) Have his or her right to practice suspended for a period not to exceed
22 one year upon order of the board.

23 “(3) Be placed on probation and be required to pay the costs of probation
24 monitoring upon order of the board.

25 “(4) Be publicly reprimanded by the board. The public reprimand may
26 include a requirement that the licensee complete relevant educational courses
27 approved by the board.

28 ///

1 “(5) Have any other action taken in relation to discipline as part of an
2 order of probation, as the board or an administrative law judge may deem proper.

3 “(b) Any matter heard pursuant to subdivision (a), except for warning
4 letters, medical review or advisory conferences, professional competency
5 examinations, continuing education activities, and cost reimbursement associated
6 therewith that are agreed to with the board and successfully completed by the
7 licensee, or other matters made confidential or privileged by existing law, is
8 deemed public, and shall be made available to the public by the board pursuant to
9 Section 803.1.”

10 10. Section 2234 of the Code, in pertinent part, states:

11 “The board shall take action against any licensee who is charged with
12 unprofessional conduct. In addition to other provisions of this article,
13 unprofessional conduct includes, but is not limited to, the following:

14 “(a) Violating or attempting to violate, directly or indirectly, assisting in
15 or abetting the violation of, or conspiring to violate any provision of this chapter.

16 “...”

17 11. Unprofessional conduct under Business and Professions Code section 2234
18 is conduct which breaches the rules or ethical code of the medical profession, or conduct
19 which is unbecoming to a member in good standing of the medical profession, and which
20 demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners*
21 (1978) 81 Cal.App.3d 564, 575.)

22 12. Section 2239 of the Code, in pertinent part, states:

23 “(a) The use or prescribing for or administering to himself or herself, of
24 any controlled substance; or the use of any of the dangerous drugs specified in
25 Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be
26 dangerous or injurious to the licensee, or to any other person or to the public, or to
27 the extent that such use impairs the ability of the licensee to practice medicine
28 safely or more than one misdemeanor or any felony involving the use,

1 consumption, or self-administration of any of the substances referred to in this
2 section, or any combination thereof, constitutes unprofessional conduct. The
3 record of the conviction is conclusive evidence of such unprofessional conduct.

4 "..."

5 13. California Code of Regulations, title 16, section 1399.525, in pertinent part, states:

6 "For the purposes of the denial, suspension or revocation of a license
7 pursuant to division 1.5 (commencing with section 475) of the code, a crime or act
8 shall be considered to be substantially related to the qualifications, functions or
9 duties of a person holding a license under the Physician Assistant Practice Act if to
10 a substantial degree it evidences present or potential unfitness of a person holding
11 such a license to perform the functions authorized by the license in a manner
12 consistent with the public health, safety or welfare. Such crimes or acts shall
13 include, but are not limited to, the following:

14 "(a) Violating or attempting to violate, directly or indirectly, or assisting in
15 or abetting the violation of, or conspiring to violate any provision or term of the
16 Medical Practice Act.

17 "(b) Violating or attempting to violate, directly or indirectly, or assisting in
18 or abetting the violation of, or conspiring to violate any provision or term of the
19 Physician Assistant Practice Act.

20 "..."

21 "(e) Any crime or act involving the sale, gift, administration, or furnishing
22 of narcotics or dangerous drugs or dangerous devices, as defined in Section 4022
23 of the code.

24 "..."

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Excessive Use of Drugs or Alcohol)**

3 16. Respondent has subjected his Physician Assistant License No. PA-21494 to
4 disciplinary action under sections 3527, 2227 and 2234, as defined by section 2239, subdivision
5 (a), of the Code, and section 1399.525, subdivision (e), of title 16 of the California Code of
6 Regulations, in that he has used, or administered to himself, methamphetamine, a Schedule II
7 controlled substance and a dangerous drug, to the extent, or in such a manner, as to be dangerous
8 or injurious to himself, another person, or the public, or to the extent that such use impairs his
9 ability to practice medicine safely, as more particularly alleged in paragraph 15, above, which is
10 hereby incorporated by reference as if fully set forth herein.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(General Unprofessional Conduct)**

13 17. Respondent has subjected his Physician Assistant License No. PA-21494 to
14 disciplinary action under sections 3527, 2227 and 2234 of the Code, in that he has engaged in
15 conduct which breaches the rules or ethical code of the medical profession, or conduct which is
16 unbecoming to a member in good standing of the medical profession, and which demonstrates an
17 unfitness to practice medicine, as more particularly alleged in paragraph 15, above, which is
18 hereby incorporated by reference as if fully set forth herein.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Violating or Attempting to Violate, Directly or Indirectly, Any Provision of the**
21 **Medical Practice Act and Physician Assistant Practice Act)**

22 18. Respondent has subjected his Physician Assistant License No. PA-21494 to
23 disciplinary action under sections 3527, 2227 and 2234 of the Code, and section 1399.525,
24 subdivisions (a) and (b), of title 16 of the California Code of Regulations, in that he violated or
25 attempted to violate, directly or indirectly, any provision of the Medical Practice Act and
26 Physician Assistant Practice Act, as more particularly alleged in paragraphs 15 to 17, above,
27 which are hereby incorporated by reference as if fully set forth herein.


28 ///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physician Assistant Board issue a decision:

1. Revoking or suspending Physician Assistant License No. PA-21494, issued to Respondent Michael Stephen Kays, P.A.;
2. Taking action as authorized by section 822 of the Code as the Physician Assistant Board, in its discretion, deems necessary and proper;
3. Ordering Respondent Michael Stephen Kays, P.A. to pay the Physician Assistant Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and, if placed on probation, the costs of probation monitoring; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: June 1, 2017


MAUREEN L. FORSYTH
Executive Officer
Physician Assistant Board
Department of Consumer Affairs
State of California
Complainant

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